

THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:

JOSEPH JOHN KUBALA
XXX-XX-6252
3505 SPRUCE STREET
ROYSE CITY, TX 75189

ERIN COLLEEN KUBALA
XXX-XX-7868

DEBTORS

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CASE NO. 19-40292-R

CHAPTER 13

MOTION TO DISMISS AND SETTING HEARING

THE TRUSTEE REQUESTS THE COURT TO SET THIS MOTION FOR HEARING ON September 22, 2021, AT 10:00 am AS FOLLOWS:

THE MOTION TO DISMISS HEARING WILL BE HELD TELEPHONICALLY.

PLEASE DIAL INTO THE HEARING CONFERENCE LINE: 1-888-675-2535

YOU WILL BE PROMPTED FOR AN ACCESS CODE: 4225607

WHEN PROMPTED FOR A SECURITY CODE PLEASE USE: 3633

**(A) Parties may submit exhibits by attaching the proposed exhibits to that party's witness and exhibit list .
e proposed exhibits shall be marked in accordance with the Court's Local Bankruptcy Rules as if they were being offer
at an in-person hearing.**

(B) Parties may present direct witness testimony by affidavit or declaration under penalty of perjury .

COMES NOW Carey D. Ebert, Chapter 13 Trustee, and files this Motion to Dismiss and Setting Hearing in the above numbered and styled proceeding, and for cause would show the Honorable Court as follows:

1. The Debtors have unreasonably delayed the case because the Debtors have failed to make Chapter 13 plan payments as required by 11 USC §1326(a)(1). As of August 30, 2021, the Debtors are in arrears in the amount of \$2,927.50 .

2. Failure to perform this duty constitutes an unreasonable delay by the Debtors that is prejudicial to creditors under 11 USC §1307(c)(1) and amounts to a material default of a confirmed plan under 11 USC §1307(c)(6), and thus, cause exists for dismissal.

WHEREFORE, PREMISES CONSIDERED, Carey D. Ebert, Chapter 13 Trustee, prays that this case be dismissed for cause.

Respectfully submitted,

/s/ Carey D. Ebert

Carey D. Ebert, Chapter 13 Trustee, TBN 05332500
Office of the Standing Chapter 13 Trustee
500 North Central Expressway, Suite 350
Plano, Texas 75074
(972) 943-2580

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion to Dismiss and Setting Hearing has been served upon the following parties in interest by mailing a copy of same to them via first class mail and uploaded to the Court for service by the Bankruptcy Noticing Center to the parties on the Court's mailing matrix on the date set forth below .

JOSEPH JOHN KUBALA
ERIN COLLEEN KUBALA
3505 SPRUCE STREET
ROYSE CITY, TX 75189

THE MITCHELL LAW FIRM, L.P.
1412 MAIN STREET, SUITE 500
DALLAS, TX 75202

Dated: August 31, 2021

/s/ Carey D. Ebert

Office of the Standing Chapter 13 Trustee